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Art Unit 1662

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REMARKS

Claims 40-58 were pending in the application. Claims 48-49 have been canceled, without prejudice, and claims 44-47 and 58 has been amended. Accordingly, claims 40-47 and 50-58 will be currently pending in the instant application upon entry of this Amendment.

Any amendments to and/or cancellation of the claims is not to be construed as an acquiescence to any of the rejections set forth in the instant Office Action, and was done solely to expedite prosecution of the application. Applicants hereby reserve the right to pursue the subject matter of the claims as originally filed in this or a separate application(s).

Allowable Subject Matter

Applicants gratefully acknowledge the Examiner's indication that claims 40-43 and 50-57 are allowed.

Rejection of Claims 44-47, 49, and 58 Under 35 U.S.C. 112, Second Paragraph

The Examiner has rejected claims 44-47 and 58 Under 35 U.S.C. 112, second paragraph as "being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention." In particular, the Examiner is of the opinion that "the term 'phosphoenolpyruvate: sugar phosphotransferase system polypeptide' is confusing. It is not clear whether said term is referring to a specific and unique polypeptide or to a series of polypeptides involved in sugar transferase system. SEQ ID NO:2 in Table 1 of the specification is defined as Phosphotransferase enzyme II (EC 2.7.1.69). Therefore for examination purposes it is assumed that said term is referring to Phosphotransferase enzyme II (EC 2.7.1.69). (Emphasis in original)

Applicants respectfully traverse the foregoing rejection and submit that claims 44-47 and 58 are clear and definite. However, in an effort to expedite prosecution of the instant application and in no way acquiescing to the Examiner's rejection, claims 44-47 have been amended to refer to a "phosphotransferase enzyme II polypeptide".

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Accordingly, Applicants respectfully request reconsideration and withdrawal of the foregoing rejection.

Rejection of Claims 48 and 49 Under 35 U.S.C. 112, First Paragraph

The Examiner has rejected claims 48-49 under 35 U.S.C 112, first paragraph, "because the specification, while being enabling for isolated nucleic acids encoding SEQ ID NO:2, does not reasonably provide enablement for ether isolated DNA sequences that comprise merely 100 nucleotides of SEQ ID NO:2 or comprising sequences that can encode 100 contiguous amino acids of SEQ ID NO:2 with no function."

Applicants respectfully traverse the foregoing rejection. However, in an effort to expedite prosecution of the instant application, and in no way acquiescing to the Examiner's rejection, claims 48 and 49 have been canceled, thereby rendering the foregoing rejection moot.

Rejection of Claims 48 and 49 Under 35 U.S.C. 112, Second Paragraph

The Examiner has rejected claims 48-49 under 35 U.S.C 112, first paragraph, "as containing subject matter which was not described in the specification in such a way as to reasonable convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 48 and 49 [sic] are drawn to a genera of nucleotides that either comprise merely 100 nucleotides of SEQ ID NO:2 or comprising sequences that can encode 100 contiguous amino acids of SEQ ID NO:2, which have not been adequately described in the specification"

Applicants respectfully traverse the foregoing rejection. However, in an effort to expedite prosecution of the instant application, and in no way acquiescing to the Examiner's rejection, claims 48 and 49 have been canceled, thereby rendering the foregoing rejection moot.

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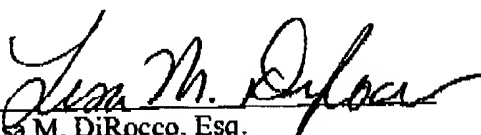
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CONCLUSION

If a telephone conversation with Applicants' Attorney would expedite the prosecution of the above-identified application, the examiner is urged to call the undersigned at (617) 227-7400.

Respectfully submitted,


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